

§ 53-364. Requirements to apply for and maintain status as a private trust company.

(a) A private trust company or a proposed private trust company requesting an exemption from the provisions of this Article pursuant to G.S. 53-363 shall file an application with the Commissioner, in the form required by the Commissioner, containing, preceded, or accompanied by:

- (1) An application fee as set by rules of the Commissioner;
- (2) A statement under oath of the reasons for requesting the exemption;
- (3) A statement under oath showing that the private trust company is not currently transacting business with the general public and that the company will not transact business with the general public without the approval of the Commissioner;
- (4) A listing of the specific provisions of the Act from which exemption is requested; and
- (5) The name of the designated relative whose relationship to other individuals determines whether the individuals are family members under G.S. 53-363(a)(2). The designated relative must be living and 18 years of age or older at the time the application is made.

(b) The Commissioner may make further inquiry and investigation as the Commissioner deems appropriate. Notwithstanding any other law to the contrary, information bearing on actual or proposed accounts of the private trust company or proposed private trust company applying for the exemption is confidential and not subject to public disclosure.

(c) To maintain its status as a private trust company and to maintain any exemptions from the provisions of this Article granted by the Commissioner, a private trust company shall file with the Commissioner an annual certification that it is in compliance with the provisions of this Subpart and the conditions and limitations of all exemptions granted. This annual certification shall be filed in the form required by the Commissioner and accompanied by any fee required by the Commissioner by rule. The annual certification shall be filed on or before December 31 of each year. The Commissioner may examine or investigate the private trust company periodically as necessary to verify the certification.

(d) In any transaction involving a private trust company for which an application is required under G.S. 53-360, any exemption from the provisions of this Article granted to the private trust company shall automatically terminate upon the consummation of the transaction unless the Commissioner approves the continuation of the exemption.

(e) The Commissioner may revoke any exemption from the provisions of this Article granted to a private trust company in the following circumstances:

- (1) An officer or director of the private trust company makes a false statement under oath on any document required to be filed by this Article or by any rules or orders of the Commissioner;
- (2) The private trust company fails to submit to an examination as required by G.S. 53-367;
- (3) An officer or director of the private trust company withholds requested information from the Commissioner; or
- (4) The private trust company violates any provision of this Subpart or fails to meet any condition on which the exemption is based.

(f) If the Commissioner determines from examination or other credible evidence that a private trust company has violated any of the requirements of this Subpart or fails to meet any condition or limitation on which an exemption from the provisions of this Article is based, the Commissioner may by personal delivery or registered or certified mail, return receipt requested, notify the private trust company that the private trust company's exemptions from the

provisions of this Article will be revoked unless the private trust company corrects the violation or failure or shows cause why any exemptions should not be revoked. The notification shall state grounds for the revocation with reasonable certainty and shall advise of an opportunity for a hearing. The notice shall state the date upon which the revocation shall become effective absent a correction or showing of cause why the exemption should not be revoked, which shall not be before the thirtieth day after the date the notification is mailed or delivered, except as provided in subsection (g) of this section. The revocation shall take effect for the private trust company on the date stated in the notice if the private trust company does not request a hearing in writing before the effective date. After the revocation takes effect, the private trust company shall be subject to all of the requirements and provisions of this Article applicable to a State trust company.

(g) If the Commissioner determines from examination or other credible evidence that a private trust company appears to be engaging or attempting to engage in acts intended, designed, or likely to deceive or defraud the public, the Commissioner may shorten or eliminate the 30-day notice period specified in subsection (f) of this section, but shall promptly afford a subsequent hearing upon request to rescind the action taken.

(h) If the private trust company does not comply with all of the provisions of this Article or correct any failure to meet any condition or limitation on which an exemption is based within the notice period specified in subsection (f) of this section, the Commissioner may institute any action or remedy prescribed by this Article or any applicable rule. (2001-263, s. 1.)